

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ZIYAO JIANG,	:	
Plaintiff,	:	
v.	:	Case No. 3:23-cv-306-KRG-KAP
	:	
JOHNSTOWN DISTRICT LIBRARY	:	
CENTER, GREATER JOHNSTOWN	:	
WATER AUTHORITY, LOWER YODER	:	
TOWNSHIP, JOHNSTOWN POLICE	:	
DEPARTMENT, and ANNA ELIZABETH	:	
FU,	:	
Defendants	:	

Memorandum Order

Plaintiff's motion for my recusal, ECF no. 12, based on the suggestion that because Johnstown (where the division's court is located) is so small I might use services provided by one or more defendants (presumably the library, water authority, or police department) is denied. Use of services is too remote to constitute a substantial interest or financial interest triggering mandatory recusal under 28 U.S.C. § 455(b)(4). See In re Virginia Elec. & Power Co., 539 F.2d 357, 368 (4th Cir. 1976)(vacating the recusal of a judge who was a customer of a utility company, the rates of which might be affected by the outcome of the pending litigation, on the grounds that the interest was not a financial interest and in determining whether it was otherwise a substantial interest the judge "must necessarily consider the remoteness of the interest and its extent or degree.")

Recusal motions under the appearance of impropriety subsection, 28 U.S.C. § 455(a), should identify "facts that might reasonably cause an objective observer to question [the presiding judge's] impartiality." See Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847, 865 (1988)(recusal proper where judge in a bench trial sat on the board of trustees of a party negotiating with one of the litigants over property, the ownership of which was at issue in the bench trial); Clemmons v. Wolfe, 377 F.3d 322, 326 (3d Cir.2004)(recusal from habeas proceedings required of a judge who before taking the federal bench presided over the state court criminal proceedings). Recusal based on an innuendo of hometown bias is not sufficient.

DATE: April 22, 2024

Keith A. Pesto,
United States Magistrate Judge

Notice by U.S. Mail to:

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